

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
CASE NO. 20-cv-954-WO-JLW**

FARHAD AZIMA,

Plaintiff,

v.

NICHOLAS DEL ROSSO and VITAL  
MANAGEMENT SERVICES, INC.,

Defendants.

**PLAINTIFF'S  
RESPONSE TO DEFENDANTS'  
MOTION TO SEAL**

Plaintiff Farhad Azima respectfully responds to the Motion of Defendants to seal (ECF No. 381) with respect to several exhibits filed in connection with their Motion for Summary Judgment (ECF No. 379). In accordance with Local Rule 5.4(c)(4)b., Plaintiff offers the following information in support of its position concurring in Defendants' Motion to Seal.

As to the substance of the motion to seal, the Court "first must determine the source of the right of access with respect to each document, because only then can it accurately weigh the competing interests at stake." *Id.* The Court may seal documents "if the public's right of access is outweighed by competing interests." *In re Knight Pub. Co.*, 743 F.2d 231, 235 (4th Cir. 1984). The factors the Court takes into account in this regard include "whether the records are sought for improper purposes, such as promoting public scandals or unfairly

gaining a business advantage; whether release would enhance the public's understanding of an important historical event; and whether the public has already had access to the information contained in the records.” *Id.* Based on an evaluation of these and any other relevant factors, the Court must find that the justification for sealing documents overcomes both the First Amendment and common law presumption of access. *Id.* The Court has recognized that it is appropriate to seal certain materials where those materials are covered by confidentiality protective orders entered by the Court. *See, e.g., Trustees of Purdue Univ. v. Wolfspeed, Inc.*, No. 1:21cv840, 2023 WL 2776193, \*2 (M.D.N.C. Feb. 28, 2023).

The materials at issue in Defendants’ Motion to Seal include (1) documents Plaintiff designated as trade secrets; (2) transcript excerpts of testimony that has been designated confidential in accordance with the parties’ Confidentiality Protective Order or that has yet to be subject to confidentiality designation; and (3) transcript excerpts of testimony related to Plaintiff’s designated trade secrets. *See* ECF No. 381. All of these exhibits are covered by the Confidentiality Protective Order entered in this case (ECF Nos. 114 & 177).<sup>\*</sup> Plaintiff submits that less drastic alternatives will not afford adequate

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<sup>\*</sup> With respect to Defendants’ Exhibit O (deposition transcript of Jimmy Pappas), the time has not yet run for Plaintiff to finalize confidentiality designations. Once Plaintiff has made those designations, Plaintiff will file an additional response with the Court that complies with the Local Rules as to that Exhibit.

protection to the materials that either has been designated as trade secrets or is related to Plaintiff's trade secrets, or is otherwise covered by the Confidentiality Protective Order entered in this case. Plaintiff further submits that the concerns as to trade secrets and confidentiality in the context of the Confidentiality Protective Order entered in the case outweigh the First Amendment and common law presumption of access.

Based on the foregoing, Plaintiff submits that there is good cause to seal the exhibits from Defendants' Motion for Summary Judgment. To the extent the Court determines that one or more of these documents should not be sealed, Plaintiff requests a reasonable time for portions of these documents to be redacted and for further relief as is just and appropriate.

This, the 26th day of July, 2024.

**WOMBLE BOND DICKINSON (US) LLP**

/s/ Ripley Rand

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**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send electronic notification of this Notice to the following attorneys:

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This, the 26th day of July, 2024.

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